

DOD: 7/5/1999		DALE BOLDEN , Administrator of the Estate of Odell Moultrie, surviving spouse, is petitioner.	NEEDS/PROBLEMS/COMMENTS: Continued from 7/10/2013. Minute order states the Court indicates that it is not ordering a title search. The Court directs the parties to exchange documents with each other. Parties are directed to file any objections by 8/14/2013. Parties agree to participate in mediation today at 1:30 p.m. As of 8/9/2013 there have been no additional documents filed. 1. Petition does not allege that the property was acquired using community funds. If the property was acquired by gift or inheritance it would not be considered community property even though it was acquired during the marriage.
		No other proceedings	
		Decedent died intestate.	
Cont. from 052213, 060513, 071013		Petitioner states all of the property in the petition was acquired during the marriage while the parties were legally married and domiciled in this state.	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections	Petitioner requests court confirmation that ½ interest in mineral, oil, gas and hydrocarbons rights in real property located in Fresno County belongs to her and ½ interest passes to her. Objections to Spousal Property Petition filed by GERALD BREAZELL on 6/13/13. Objector alleges that the subject property is "heir property" that was granted to Odell Moultrie by his mother and father "for convenience" in what can best be described as a "secret trust." The terms of the trust was to distribute whatever interest that was conveyed to him to various family members and their children. Odell Moultrie conveyed what was conveyed to him by his parents to himself and to various other family members in the share that he was instructed to convey by his parents.	
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
Please see additional page			Reviewed by: KT Reviewed on: 8/9/2013 Updates: Recommendation: File 1 – Moultrie

Objections cont.:

Objector believes that inasmuch as whatever interest Odell Moultrie owned at the time of his death, under California Law, it was a gift or inheritance and thus his separate property and not community property, thereby defeating the propriety of the Spousal Property Petition.

Objector believes that there may be gaps in the chain of title with respect to the current ownership of the precise percentage of ownership of mineral interest by the deceased Odell Moultrie and this objector and the others owners. Objector believes that only a certified and insurable titled search can resolve this issue. The expense of same should be borne by both Petitioner and Objector since the result would benefit or damage either of them depending upon how the research turns out.

Objector prays for an Order that:

1. The Spousal Property Petition not be granted or approved at this time.
2. The court order a chain of title search back to 1961 or earlier date-certain which the court may deem appropriate.
3. The court order Petitioner and Objector to share the costs of such report equally.

Atty Kruthers, Heather H (for Petitioner/Conservator Public Guardian)

Atty Teixeira, J. Stanley (court appointed for conservatee)

Petition for Fees for Conservator and Her Attorney

Age: 66 years		PUBLIC GUARDIAN , Conservator, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states the first account was approved on 5/29/2007. At that time the court dispensed with future accountings so long as the conservatorship estate continued to meet the requirements of Probate Code §2628(b). The requirements of Probate Code §2628(b) remain.	
Cont. from		The Conservatee is on Medi-Cal, and thus is only allowed to maintain assets of \$2,000.00 otherwise she will lose her benefits eligibility. Her funds have built up to that amount, so they must be spent down. The Conservator and her attorney have provided services to the Conservatee since 2007 without payment.	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

(1) Second Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney [Prob. C. 2620; 2623; 2942]

Age: 87 years		PUBLIC GUARDIAN , Conservator, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 7/15/11 – 6/13/13	Note: If the petition is granted, a status hearing will be set as follows:
		Accounting - \$1,052,608.80	
Cont. from		Beginning POH - \$ 924,262.38	<ul style="list-style-type: none"> Friday, August 28, 2015 at 9:00 a.m. in Department 303, for the third account.
<input type="checkbox"/>	Aff.Sub.Wit.	Ending POH - \$ 435,757.73 (\$85,757.73 is cash)	
<input checked="" type="checkbox"/>	Verified		<p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p>
<input type="checkbox"/>	Inventory	Conservator - \$23,207.00 (113.61 Deputy hours @ \$96/hr and 161.81 Staff hours @ \$76/hr)	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Attorney - \$2,500.00 (per Local Rule)	
<input checked="" type="checkbox"/>	Aff.Mail	W/	
<input type="checkbox"/>	Aff.Pub.	Attorney - \$3,000.00 for sale of 3 parcels of real property)	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	Bond fee - \$546.98 (o.k.)	
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp	Petitioner prays for an Order:	
<input type="checkbox"/>	Objections	1. Approving, allowing and settling the second account.	
<input type="checkbox"/>	Video Receipt	2. Authorizing the conservator and attorney fees and commissions	
<input type="checkbox"/>	CI Report	3. Payment of the bond fee	
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		Reviewed by: KT
<input type="checkbox"/>	Aff. Posting		Reviewed on: 8/9/2013
<input type="checkbox"/>	Status Rpt		Updates:
<input type="checkbox"/>	UCCJEA		Recommendation:
<input type="checkbox"/>	Citation		File 3 – Hart
<input type="checkbox"/>	FTB Notice		

		<p>BRUCE BICKEL, Trustee, is petitioner.</p> <p>The Second Account with the account period ending 9/30/10 was approved on 5/31/2011.</p> <p>The property on hand at the end of the Second Account was \$324,092.90.</p> <p>This status hearing was set for the filing of the Third Account.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Third Account or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
<p>Reviewed by: KT</p> <p>Reviewed on: 8/9/2013</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4 – Castillo</p>			

Waiver of Accounting and (1) Petition for Final Distribution Under Will and (2) for Allowance of Fees to Attorney [Prob. C. 11640, 10810]

DOD: 9/24/2007		DEBORAH SAFFELL , Executor, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Accounting is waived.	
Cont. from 071013		I & A - \$262,567.21	
		POH - \$ 41,226.02	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
		Executor - waives	
<input checked="" type="checkbox"/>	Inventory		
		Attorney - \$5,277.02 (statutory)	
<input checked="" type="checkbox"/>	PTC		
<input checked="" type="checkbox"/>	Not.Cred.		
		Closing- \$800.00	
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	W/	
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
<input checked="" type="checkbox"/>	Letters	1/8/2008	
		Deborah Saffell, as Trustee of the James M. Cooper Living Trust - \$48,612.54	
Duties/Supp			
Objections			
Video Receipt			
CI Report			
<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
<input checked="" type="checkbox"/>	FTB Notice		
			Reviewed by: KT
			Reviewed on: 8/9/2013
			Updates:
			Recommendation: SUBMITTED
			File 5 – Cooper

Petition Requesting Re-Appointment of Executor for Transfer of After Discovered
Real Property to Decedents Beneficiaries

DOD: 6/26/2010		THOMAS JAMES SNYDER , Executor of the Will, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states he was appointed Executor on 8/24/2010. A final Order granted Executor's request to distribute the property remaining in the estate to all the beneficiaries named in Decedent's Will.	
Cont. from		The final order also included an omnibus clause allowing all after discovered property to be distributed to the Decedent's heirs without need to reopen the probate estate.	
	Aff.Sub.Wit.		
✓	Verified	After termination of the estate and discharge of the executor it was discovered that the Decedent held and interest in a timeshare vacation property in Southern California.	
	Inventory		
	PTC	Wherefore Petitioner requests pursuant to the provisions of the final order and specifically the omnibus clause the Court order the reappointment of Thomas James Snyder as Executor of the Estate; that letters re-issue in his name and that distribution of after discovered property be distributed to the decedent's heirs.	
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: KT
			Reviewed on: 8/9/2013
			Updates:
			Recommendation:
			File 6A – Snyder

Petition Requesting Transfer of After Discovered Real Property to Decedent's Beneficiaries Fees [Prob. C. 11642](a)]

DOD: 6/26/2010		THOMAS JAMES SNYDER, Executor of the Will, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states he was appointed Executor on 8/24/2010. A final Order granted Executor's request to distribute the property remaining in the estate to all the beneficiaries named in Decedent's Will.	
Cont. from 070313		The final order also included an omnibus clause allowing all after discovered property to be distributed to the Decedent's heirs without need to reopen the probate estate.	
	Aff.Sub.Wit.		
✓	Verified	After termination of the estate and discharge of the executor it was discovered that the Decedent held and interest in a timeshare vacation property in Southern California.	
	Inventory		
	PTC	Wherefore Petitioner requests pursuant to the provisions of the final order and specifically the omnibus clause the Court order distribution of the real property be distributed to:	
	Not.Cred.		
✓	Notice of Hrg	Thomas James Snyder Laurel Ann [Liefert] Snyder Mark Robert Snyder Carolyn Lee Snyder	
✓	Aff.Mail		
	Aff.Pub.	Inventory and Appraisal filed on 6/24/2013 shows the value of the after discovered property as \$5,000.00.	
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Reviewed by: KT
Reviewed on: 8/9/2013
Updates:
Recommendation:
File 6B – Snyder

Atty Smith, Jane T. (for Petitioner/Conservator Public Guardian)

Atty Sanoian, Joanne (Court Appointed for Conservatee)

(1) Second and Final Account and Report of Conservator; (2) Petition for Allowance of Compensation to Conservator and Attorney [Prob. C. 1860; 2620; 2623; 2630; 2942]

DOD: 2/20/2013	xxxxxxx, Conservator, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Account period: 10/5/12 – 2/20/13	
	Accounting - \$36,944.71	
Cont. from	Beginning POH - \$29,370.87	
Aff.Sub.Wit.	Ending POH - \$11,260.72	
✓ Verified	Subsequent account period: 2/21/13 – 4/19/13	
Inventory	Accounting - \$13,669.85	
PTC	Beginning POH - \$11,260.72	
Not.Cred.	Ending POH - \$12,128.12	
✓ Notice of Hrg	Conservator - \$1,756.80 (4.05 Deputy hours @ \$96/hr and 18 Staff hours @ \$76/hr)	
✓ Aff.Mail W/	Attorney - \$625.00 (per Local Rule)	
Aff.Pub.	Petition states the State of California submitted a Medi-Cal claim for \$107,327.92. After payment of fees and commissions, and said claim, there will be no assets remaining.	
Sp.Ntc.	Petitioner prays for an Order:	
Pers.Serv.	4. Approving, allowing and settling the second and final account.	
Conf. Screen	5. Authorizing the conservator and attorney fees and commissions	
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 8/9/2013
		Updates:
		Recommendation:
		File 7 – Peluso

(1) First Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney [Prob. C. 2620; 2623; 2630; 2942]

Age: 81		PUBLIC GUARDIAN , Conservator, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 04/30/12 – 04/30/13	1. Schedule C(11) lists 10 overdraft/NSF fees in the amount of \$35.00 each from 07/06/12 – 11/06/12. The Court may require clarification as to why the account was overdrawn on so many occasions and/or more information as to why the conservator's fee shouldn't be reduced by this amount since they were responsible for the management of the account at the time the overdrafts occurred.
		Accounting - \$146,293.40 Beginning POH - \$110,255.62 Ending POH - \$118,189.74	
Cont. from		Conservator - \$9,386.96 (27.5 staff hours @ \$76/hr. and 76.01 Deputy hours @ \$96/hr.)	
<input type="checkbox"/>	Aff.Sub.Wit.	Attorney - \$2,500.00 (per Local Rule)	
<input checked="" type="checkbox"/>	Verified	Bond Fee - \$25.00 (ok)	
<input type="checkbox"/>	Inventory	Costs - \$629.00 (filing fees and certified copies)	
<input type="checkbox"/>	PTC	Petitioner requests that due to the insufficiency of cash in the estate to pay the fees and commissions that a lien be imposed upon the estate for any unpaid balances of the authorized fees and commissions.	
<input type="checkbox"/>	Not.Cred.	Petitioner prays for an Order:	
<input checked="" type="checkbox"/>	Notice of Hrg	1. Approving, allowing and settling the First Account;	
<input checked="" type="checkbox"/>	Aff.Mail w/	2. Authorizing the conservator and attorney fees and commissions;	
<input type="checkbox"/>	Aff.Pub.	3. Authorizing payment of the bond fee and costs; and	
<input type="checkbox"/>	Sp.Ntc.	4. Authorizing petitioner to impose a lien on the estate for any unpaid balance of authorized fees and commissions.	
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	2620(c) n/a		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		Court Investigator Anita Morris filed a report on 06/28/13.	Reviewed by: JF Reviewed on: 08/09/13 Updates: Recommendation: File 8 – Steinhauer

(1) First and Final Account and Report of Administrator and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and (3) for Distribution [Prob. C. 216; 9202; 10800; 10810; 10951; 11600; 11850(a)]

DOD: 05/09/12		PUBLIC ADMINISTRATOR , Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED TO 09/17/13</u> Per request of Counsel 1. The sole beneficiary of the estate resides in Canada. Need further information regarding the necessity of notice pursuant to Probate Code § 8113 re: monies passing to a citizen of a foreign country.
		Account period: 05/09/12 – 06/07/13	
Cont. from		Accounting - \$753,270.67	
<input type="checkbox"/>	Aff.Sub.Wit.	Beginning POH - \$729,541.94	
<input checked="" type="checkbox"/>	Verified	Ending POH - \$661,286.82 (all cash)	
<input checked="" type="checkbox"/>	Inventory	Administrator - \$17,943.89 (statutory less \$117.65 for accidental double payment of creditor's claim)	
<input checked="" type="checkbox"/>	PTC	Administrator x/o - \$1,248.00 (for sale of real property and preparation of tax returns)	
<input checked="" type="checkbox"/>	Not.Cred.	Attorney - \$18,061.54 (statutory)	
<input checked="" type="checkbox"/>	Notice of Hrg	Bond Fee - \$1,883.18 (ok)	
<input checked="" type="checkbox"/>	Aff.Mail	Costs - \$906.50 (filing fees and certified copies)	
<input type="checkbox"/>	Aff.Pub.	Closing - \$10,000.00	
<input type="checkbox"/>	Sp.Ntc.	Distribution, pursuant to intestate succession, is to:	
<input type="checkbox"/>	Pers.Serv.	Rudolph K. Kriegler - \$611,243.71	
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input checked="" type="checkbox"/>	FTB Notice		

Reviewed by: JF
Reviewed on: 08/09/13
Updates: 08/12/13
Recommendation:
File 9 – Kal

10 Rebecca Hartman (Det Succ)
 Atty Hartman, Desiree D. (pro per Petitioner)
 Atty Hartman, Keith L. (pro per Petitioner)
 Atty Chronister, Sherie D. (pro per Petitioner)

Case No. 13CEPR00276

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 7/18/2012		DESIREE D. HARTMAN, KEITH HARTMAN and SHERIE D. CHRONISTER , children of the Decedent, are petitioners. 40 days since DOD. No other proceedings. Decedent died intestate. I & A - see note #1 Petitioners request Court determination that Decedent's interest in real property located at 1639 Palo Alto in Fresno passes to them 1/3 each, pursuant to intestate succession.	NEEDS/PROBLEMS/COMMENTS: Continued from 7/9/13. As of 8/8/2013 the following issues remain: 1. The property must be appraised by the probate referee. Need inventory and appraisal completed by the probate referee. 2. Need date of death of deceased spouse. Local Rule 7.1.1D. 3. Order is incomplete. Order should include the complete legal description of the property and each petitioner's name and specific interest they will be receiving.
Cont. from 050713, 070913			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	N/A		
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Reviewed by: KT
Reviewed on: 8/8/13
Updates:
Recommendation:
File 10 – Hartman

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 2/26/2013		ERIK SCOTT , son, is petitioner. 40 days since DOD. No other proceedings. Will dated: 3/5/2011 devises entire estate to son, Erik Scott. I & A - \$145,000.00 Petitioner requests Court determination that Decedent's interest in real property passes to him pursuant to the Decedent's Will.	NEEDS/PROBLEMS/COMMENTS:
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
✓	Inventory		
✓	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail W/		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		Reviewed by: KT	
		Reviewed on: 8/9/2013	
		Updates:	
		Recommendation: SUBMITTED	
		File 11 – Reitz	

DOD: 5/31/2013			ALICE G. SWANK, LINDA L. COLE and EARL H. WEBER , children of the Decedent, are petitioners. 40 days since DOD. No other proceedings. Will dated: 4/2/2012 devises entire estate to Petitioners. I & A
-----------------------	--	--	---

Atty Mares, Herman Jr. (pro per Petitioner/maternal grandfather)

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

Anthony age: 10	<u>TEMPORARY EXPIRES 8/14/2013</u>	NEEDS/PROBLEMS/COMMENTS:
Isaiah age: 7	<u>GENERAL HEARING 9/5/2013</u>	
	HERMAN MARES, JR. , paternal grandfather, is petitioner.	1. Need Notice of Hearing. 2. Need proof of service of the Notice of Hearing along with a copy of the temporary petition or Consent and Waiver of Notice or Declaration of Due Diligence for: a. Anthony Hernandez, Sr. (father) b. Mandy Mares (mother)
Cont. from	Father: ANTHONY HERNANDEZ, Sr.	
<input type="checkbox"/> Aff.Sub.Wit.	Mother: MANDY MARES	
<input checked="" type="checkbox"/> Verified	Paternal grandfather: Noel Hernandez	
<input type="checkbox"/> Inventory	Paternal grandmother: Isabel Trinidad	
<input type="checkbox"/> PTC	Maternal grandmother: Paula Ortiz	
<input type="checkbox"/> Not.Cred.	Petitioner states mom was recently released from jail and is threatening to abscond with the children. At mom's sentencing hearing earlier this year the Court ordered her to attend an in-patient rehab program upon her release from jail. When asked about the rehab Mom stated she did not have to go. Since her release Mom has shown up to the home drunk. Petitioner states he fears for this grandchildren's safety.	
<input type="checkbox"/> Notice of Hrg		
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input checked="" type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input checked="" type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: KT
		Reviewed on: 8/9/2013
		Updates:
		Recommendation:
		File 13 – Hernandez

Petition for Appointment of Temporary Conservatorship of the Person and Estate

DOD: 8/5/2013		SHERRY BACHMAN, daughter, is petitioner.	NEEDS/PROBLEMS/COMMENTS: Conservatee died on 8/5/2013.
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		Reviewed by: KT	
		Reviewed on: 8/9/2013	
		Updates:	
		Recommendation:	
		File 14 – Crossman	

Atty Sanoian, Joanne, of Law Offices of Joanne Sanoian (for Christine Reynolds)

CONFIDENTIAL

		NEEDS/PROBLEMS/COMMENTS:
Cont. from		
<input type="checkbox"/>	Aff.Sub.Wit.	
<input type="checkbox"/>	Verified	
<input type="checkbox"/>	Inventory	
<input type="checkbox"/>	PTC	
<input type="checkbox"/>	Not.Cred.	
<input type="checkbox"/>	Notice of Hrg	
<input type="checkbox"/>	Aff.Mail	
<input type="checkbox"/>	Aff.Pub.	
<input type="checkbox"/>	Sp.Ntc.	
<input type="checkbox"/>	Pers.Serv.	
<input type="checkbox"/>	Conf. Screen	
<input type="checkbox"/>	Letters	
<input type="checkbox"/>	Duties/Supp	
<input type="checkbox"/>	Objections	
<input type="checkbox"/>	Video Receipt	
<input type="checkbox"/>	CI Report	
<input type="checkbox"/>	9202	
<input checked="" type="checkbox"/>	Order	
<input type="checkbox"/>	Aff. Posting	
<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
		Reviewed by: LEG
		Reviewed on: 8/9/13
		Updates:
		Recommendation:
		File 15 – Smith

Atty Motsenbocker, Gary L. (for Dale Bolden – Daughter/Administrator)
 Atty Johnson, Mark D. (for The Ebenezer Community Church of God in Christ)
 Status Hearing Re: Settlement Agreement

DOD: 10-5-99		<p>DALE BOLDEN, Administrator with Full IAEA, filed a Petition Requesting Partition of Real Property and Reimbursement of Costs Advanced and Past Due Rents and for Attorney's Fees on 05/23/12.</p> <p>Minute Order from Status Conference on 10/26/12 states: Parties reach a settlement agreement as fully set forth by Mr. Johnson. Upon inquiry by the Court, parties individually agree to the terms and conditions of the settlement agreement. Mr. Motsenbocker is directed to prepare the agreement. Matter set for Status Hearing on 04/26/13. If all necessary documents are filed by 04/26/13, no appearance will be necessary.</p> <p>Status Report Re Estate Administration filed 04/22/13 states: In October 2012, the Ebenezer Church of God in Christ (the "Church") entered into an agreement with the Administrator of the decedent's estate to settle their dispute regarding ownership interests in the church premises. The Church agreed to pay the Administrator the sum of \$30,000.00 in monthly installments on the first of each month beginning December 2012 until the settlement was paid in full. The Church as thus far paid \$25,000.00 and the final payment is expected on 05/01/13. The Administrator stands ready, upon final payment, to convey the interest of the estate in the church premises to the Church upon the Church's instruction as to the property party name as the grantee on a grant deed. The Church's attorney has yet to provide a copy of the order that he prepared memorializing the settlement. Administrator's attorney prepared and forwarded a settlement agreement to the Church's attorney for approval and required signatures; that document has not been signed by the Church or returned to the Administrator. As soon as the documents are submitted as promised and the final payment is made, the Administrator stands ready to perform as agreed and she is prepared to submit a final account and request distribution of this estate.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>CONTINUED FROM 08/12/13 Minute Order from 08/12/13 states: The Court sets the matter for an Order to Show Cause on 9/23/13 regarding Mark Johnson's failure to provided documents as order; failure to appear, and imposition of sanctions in the amount of \$500.00. Mark Johnson is ordered to be personally present on 9/23/13.</p>
Cont. from 042613, 071213, 081213			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Reviewed by: JF
Reviewed on: 08/12/13
Updates:
Recommendation:
File 16 – Moultrie

Status Report Re Estate Administration filed 07/11/13 states: As of May 2013, the Ebenezer Church of God in Christ has made all of the payments agreed upon in the Settlement Agreement in total sum of \$30,000.00. The estate delivered a deed to the church shortly after payment was made in May. The Administration has performed all matters in the agreement as instructed and agreed upon. The difficulties remaining are that the Church's attorney has yet to provide a copy of the order that he prepared memorializing the settlement and compromise. The attorney for the Administrator prepared and forwarded a settlement agreement to Respondent's attorney for approval and the required signatures around the beginning of the year, but that document has not been executed or returned to the Administrator's attorney. The Administrator has been ready to submit the final account and request for distribution of the estate for several months now, but for, a new dispute in regard to certain mineral rights which has now come to light. That disputed matter is set for mediation on 08/01/13 and a follow-up status hearing on the matter is set for 08/14/13.

Clerk's Certificate of Mailing filed 07/17/13 states that a copy of the **Minute Order dated 07/12/13** was mailed to Gary Motsenbocker and Mark D. Johnson on 07/17/13.

1 **Fred Otto Loeffler (CONS/PE)** Case No. 13CEPR00655
 Atty Downing, Marcella (for Dianne Marie Huerta and Linda Plitt – daughters/Petitioners)
 Atty Rube, Melvin (for proposed conservatee)
 Atty Janisse, Ryan M. (for Michael “Mick” Loeffler – Objector)

Petition for Appointment of Temporary Conservatorship of the Person and Estate

Age: 90	<u>TEMPORARY GRANTED EX PARTE:</u>		NEEDS/PROBLEMS/COMMENTS:
	<u>EXPIRES 08/14/13</u>		
	<u>GENERAL HEARING: 09/03/13</u>		CONTINUED FROM 08/08/13 Minute Order from 08/08/13 states: The Court orders that Fred Loeffler and Kathleen Loeffler may meet in her apartment as much as they desire so long as they are alone. If Mick Loeffler is in their presence, said meetings shall take place in the cafeteria or other neutral place. The Court orders that the trust funds not be used for any other purpose other than for Fred Loeffler and Kathleen Loeffler's personal care and needs. Mr. Janisse to file his objections by Monday.
Cont. from 080813	DIANE HUERTA and LINDA PLITT , daughters, are Petitioners and request appointment as temporary Co-Conservators of the Person and as temporary Co-Conservators of the Estate or, in the alternative, that Bruce Bickel be appointed as Conservator of the Estate, with bond set at \$1,850,000.00.		
<input type="checkbox"/> Aff.Sub.Wit.			Court Investigator advised rights on 07/30/13.
<input checked="" type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			Note: The Ex Parte was granted with Petitioners as Co-Conservators of the Person and Bruce Bickel as Conservator of the Estate. Bond was posted on 07/31/13 and temporary Letters have issued.
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			Note: The Temporary was granted Ex Parte; therefore if the temporary is extended additional Letter of Conservatorship will need to be submitted.
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail	w/		Reviewed by: JF
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			Reviewed on: 08/12/13
<input checked="" type="checkbox"/> Pers.Serv.	w/		
<input type="checkbox"/> Conf. Screen		x	Updates: 08/13/13
<input type="checkbox"/> Letters		x	
<input checked="" type="checkbox"/> Duties/Supp			Recommendation:
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			File 1 – Loeffler
<input checked="" type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input type="checkbox"/> Order		x	
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			

DIANE HUERTA and LINDA PLITT, daughters, are Petitioners and request appointment as temporary Co-Conservators of the Person and as temporary Co-Conservators of the Estate or, in the alternative, that Bruce Bickel be appointed as Conservator of the Estate, with bond set at \$1,850,000.00.

Estimated Value of the Estate:

Personal property - \$1,700,000.00
 Annual income - 23,328.00
 Bond recover amt. - 124,467.00
Total - \$1,847,795.00

Petitioners allege that their parents had put together estate planning documents intended to provide for them during their elderly years. Recently, Michael Loeffler, son, has unduly influenced their parents to change their durable power of attorney, trustee of their trust, and advanced health care directive changed so that he is now acting on behalf of his parents under these instruments. Petitioners allege that Michael has an “atomic temper” and he uses yelling and intimidation to get his way. Petitioners believe that their parents are now afraid to express their own opinions and defer to Michael. Petitioners indicate that Michael lives in their parents home rent-free and is paid a monthly amount by their parents. The conservatee now resides in a skilled nursing facility and the staff at the facility have reported that Michael has been combative and made multiple complaints regarding the care provided to the conservatee. The conservatee and other family members have no concerns over the care received.

Court Investigator Charlotte Bien filed a report on 08/01/13.

Continued on Page 2

Declaration of Bruce D. Bickel Regarding Suitability for Appointment as Temporary and Permanent Conservator of the Estate filed 08/06/13 states:

1. Declarant received a letter purportedly from Fred and Kathleen Loeffler that states in part, "Kathleen and I feel you are incompetent and want nothing to do with you."
2. Declarant does not believe that the letter was composed by Fred Loeffler for the following reasons:
 - a. According to the Court Investigator's report, Fred Loeffler does not object to the proposed conservator.
 - b. Declarant served as trustee of the Fred and Kathleen for a short period of time, during which there was confusion about the payment of the Sierra View monthly rent. The facts alleged in the letter are not correct. The circumstance was straightened out to the satisfaction of Sierra View and Mrs. Loeffler. However, Mrs. Loeffler requested that Declarant resign as trustee because that was the result desired by her son, Michael, and she admitted to Declarant that, "she could not get Mick to listen to reason."
3. The tenor of the letter is consistent with behavior of Michael that Declarant witnessed, in which he inserts himself into the affairs of his parents, making demands and directions that are inconsistent with the true wishes of his parents.
4. Declarant remains available to serve as the temporary and/or permanent conservator of the estate in this matter. He does not believe that the statements in the letter are sentiments held by Kathleen and Fred Loeffler and does not affect his ability to act in the best interests of the proposed conservatees, but it does confirm his suspicion that they are vulnerable to the undue influence of their son, Michael.

Declaration of Diana Asami filed 08/06/13 states that she received a package with the restraining orders copies of which are attached to the Attachment to Declaration of Diana E. Asami filed 08/07/13.

Declaration of Melvin K. Rube in Opposition to the Petition filed 08/08/13 states:

1. On Wednesday, 08/07/13, during a phone call with Kathleen Loeffler, she confirmed that she and Fred both opposed the conservatorship and wants Declarant to represent them in this matter.
2. Kathleen Loeffler opposes the imposition of a temporary conservatorship of the Estate of Fred Loeffler because she and Fred have planned for their retirement years and created The Loeffler Family Trust. Fred and Kathleen have conveyed all of their assets into the Trust, and all of their assets, including the assets of the Trust, are the community property of Fred and Kathleen, as evidenced by the written *Community Property Agreement* executed by Fred and Kathleen on 02/14/01.
3. Pursuant to Probate Code § 3051 (b)(2), if one spouse has legal capacity and the other spouse has a conservator, the community property is not part of the conservatorship estate. Under Probate Code § 3051 (b)(1), if one spouse has legal capacity has the exclusive management and control of the community property. There is nothing in the petition that provides any legal or factual basis establishing the lack of legal capacity on the part of Kathleen. Therefore, in the event that the court imposes a conservatorship on the estate of Fred, none of the assets in the Trust would be subject to the conservatorship.
4. Further, the Trust is set up so that if Fred and Kathleen are no longer able to act, their son Michael is to appoint a professional fiduciary to act as trustee. Kathleen and Mick have contacted Pat Dicken of Perine & Dicken for the purpose of her acting as successor trustee of the Trust and as a temporary conservator of Fred's estate if conservatorship is imposed on Fred's estate.

Continued on Page 3

5. Kathleen objects to the imposition of a temporary conservatorship of the person of Fred for the following reasons:
 - a. On 07/18/13, Fred executed a California Health Care Directive under *Probate Code* § 4701 naming Mick G. Loeffler as his agent for medical decisions and as his **conservator of his person** if a conservator of the person is required to be appointed by the court. At the same time Fred also executed a revocation of all previous health care directives, which was sent to petitioners.
 - b. In anticipation of a legal challenge by Linda Plitt, Diane M. Huerta and Samuel Loeffler to the Health Care Directive, before Fred executed the document, steps were taken to ensure that Fred had the capacity to sign a new Health Care Directive and that he was not being influenced in his decision by (i) reviewing a report from Loren I. Alving, M.D. of University Neurology Associates, dated 06/20/13 regarding Fred's capacity to designate who he wants to be in charge of his health care decisions. Dr. Alving concluded that Fred's did have capacity to designate who he wants to be in charge of his health care decisions, (ii) Declarant had attorney Gary L. Motsenbocker interview Fred for approximately 30 minutes outside of the presence of Mick Loeffler and Declarant. After the conference, Mr. Motsenbocker concluded that Fred was not being influenced by Mick Loeffler and had the capacity to execute a new Health Care Directive and acted as a witness to the Health Care Directive, and (iii) pursuant to *Probate Code* § 1810, the court should honor Fred's decision to appoint Mick G. Loeffler as the conservator of the person of Fred Otto Loeffler.
6. The Petition should be denied in its entirety. Even if the Court imposes a conservatorship over the Fred's estate, the assets of the Trust are not part of Fred's estate in that said assets are the community property of Fred and Kathleen and neither the petition nor the accompanying declarations establish the "good cause" required under *Probate Code* § 2250(c) and California case law. Further, Fredn's Health Care Directive signed by him on 07/18/13 should be given preference. After all, if the court concludes that Fred had the capacity to make the statements in the probate investigator's report, then he should have the capacity to determine who he wants to make medical decisions for himself and who he wants as the conservator of his person.

Declaration of M. Kip Faria filed 08/08/13 states:

1. On 08/06/13, he traveled to the home of Kathleen Loeffler to personally serve the conservatorship documents on Mick Loeffler. When he arrived at the residence at approximately 5:24pm, he could hear a man, later identified as Mick Loeffler, talking loudly and sternly. Declarant stood at the door and listened for approximately 25 seconds during which time he heard Mick saying, "I read the court papers and Bruce pretty much lied throughout them." Declarant then rang the doorbell and Mick answered the door. Declarant identified himself and was invited inside by Mick. Kathleen and Fred Loeffler were present with Mick and they were all seated at the kitchen table eating dinner. Declarant then proceeded to serve the paperwork to all parties involved.

Supplemental Declaration of Marcella Downing, Esq. in Support of Petition for Temporary and Permanent Conservatorship of Kathleen Loeffler, Proposed Conservatee filed 08/12/13 states:

1. A conflict of interest exists with Mr. Rube representing both Kathleen and Fred Loeffler. According to California Rules of Professional Conduct, Rule 3-310(c)(1), "A member shall not, without informed written consent of each client accept representation of more than one client in a matter in which the interest of the clients potentially conflict..." Mr. Rube's fee agreement with the Loeffler's does not include any written waiver of this conflict.

Continued on Page 4

2. Mr. Loeffler has stated to the Court Investigator that he does not object to his daughters acting as his conservator. Yet, Mr. Rube is objecting because, as he admits in his declaration, "Kathleen confirmed with me that she wants me to represent both her and Fred in these conservatorship proceedings and that she and Fred do not want a conservatorship imposed on their persons or estates...and she and Fred do not want Bruce Bickel to serve...nor does she and Fred want Diane Huerta and/or Linda Plitt to act as conservators.." Clearly, Mr. Rube is taking direction from Mrs. Loeffler which is directly in opposition to the stated desires of Mr. Loeffler. Petitioner's respectfully submit that each of the Loefflers deserve to be represented by an attorney who does not have divided loyalties.
3. Probate Code § 1810 states, "if the proposed conservatee has sufficient capacity at the time to form an intelligent preference, the proposed conservatee may nominate a conservator...**unless the court finds that the appointment of the nominee is not in the best interests of the proposed conservatee.**" Regardless of the findings as it applies to the proposed conservatee's capacity, the evidence shows a pattern of violent behavior, hostile threats and mannerisms on the part of Mick Loeffler which would put any reasonable person in fear of disagreeing with him. It is not in the best interest of the proposed conservatee to allow Mick Loeffler to act as the holder of either the healthcare power of attorney or the durable power of attorney. Petitioners request a court order that all powers of attorney, both durable and for healthcare, be set aside as allowed by the code.
4. Evidence filed and that will be provided at the final hearing show a pattern of behavior which includes violence, the threat of violence, and intimidation for the purpose of financial gain. Although the proposed conservatee has put in place a system for payment of bills and management of his finances, this system is not working to substantially manage his financial resources because the very person he has entrusted to pay her bills, Mick Loeffler, is using Mr. Loeffler's money to enrich himself (Mick) and living in Mr. Loeffler's home rent free. It is believed that upon an audit by a forensic accountant, it will be found that Mick has also used the proposed conservatee's funds to pay his own expenses.
5. Undue influence exists where "the evidence is of such a nature as to warrant the inference that the will was the direct result of the influence exerted for the purpose of procuring it, and was not the natural result of the uncontrolled will of the testatrix." *In re Hettermann's Estate*, 48 Cal.App.2d 263, 273 (1941) citing *Estate of Arnold*, 147 Cal. [583], 589, 82 P. 252; *Estate of Welch*, 6 Cal.App. [44], 50, 91 P. 336." The evidence will show Mick Loeffler has taken his parents from attorney to attorney in an attempt to force his will which is contrary to their long-held testamentary intent. Prior powers of attorney and trusts which have been in place for decades are offered as essentially the "legislative history" of Mr. and Mrs. Loeffler's dispositive wishes. Mick Loeffler has influenced his parents, and in particular his mother, to fire one advisor after another when the advisor would not follow his directions, which would result in an unnatural treatment of the intended beneficiaries of the trust and would not allow Mick full control of the powers of attorney, through which he could and has further isolated his parents for the purpose of exerting continuing pressure.
6. Mr. Loeffler has been pressured by Mick to only parrot back what he is told to say and to isolate himself from all others who might help him. Evidence of this fact was provided in the note given to Mr. Loeffler by Mick. Testimony will show Mr. Loeffler is now so intimidated he shakes profusely and gets very upset if he is asked to speak to anyone other than Mick, his wife, or Mr. Rube. Petitioners believe Mr. Loeffler's change in behavior towards his other 3 children and his change in emotions are a result of what might be analogous to one suffering from post traumatic stress syndrome and is likely to rise to the level of elder abuse. An examination by a neuropsychologist is necessary. According to Dr. Alvings' report, Mr. Loeffler's scores on the SLUMS test was 14/30. Petitioners intend to show that with this level of comprehension in conjunction with the undue influence he is powerless to resist and that the establishment of a conservatorship of the estate and person is necessary.

Continued on Page 5

7. Evidence will show that Mr. Loeffler is unable to manage his own finances. The Court Investigator's report supports this assertion. Dr. Alvings June 2013 report appears to state that Mr. Loeffler had the capacity to make decisions regarding who should make his healthcare decisions, it does not appear she tested his ability to withstand undue influence. The Court Investigator's report shows that Mrs. Loeffler is willing to give Mick Loeffler as much money as he requests, stating it is compensation for care when, in fact, it appears to be payments made in the hopes that these payments will cause Mick Loeffler to control his temper. This pattern of abuse has continued for such a time that it is likely Mrs. Loeffler has now confused her desire to avoid abuse with love and affection. The consequence to Mr. Loeffler is to put his finances at risk of being diminished to the point that his needs will not be met. A neuropsychologist's examination is required to determine the extent of the harm inflicted by Mick Loeffler and Mr. Loeffler's ability to form his own opinions and withstand undue influence.
8. Declarant respectfully submits that sufficient evidence has been produced to warrant the continuance of the temporary conservatorship of the estate and the person and warrant an order of examination of the proposed conservatee by a neuropsychologist.

Objection to Petition for Appointment of Temporary Conservator(s) of the Person and Estate of Fred Loeffler filed 08/12/13 states:

1. Objector, Mick Loeffler, is the son of Fred and Kathleen Loeffler.
2. The thrust of petitioner's petition is that Objector is isolating, emotionally abusing, financially abusing, and interfering with those providing care for the proposed conservatee. In actual fact, Objector is a devoted son who has attended to his parents' needs and his parents are grateful for his efforts. Objector has engaged in no financial, physical, or emotional abuse and is not isolating his parents.
3. Objector believes that petitioners took months (if not years) to prepare their case, yet brought the action ex parte. Petitioners have had the opportunity to obtain declarations and interview witnesses, but because of the litigation tactics employed, have denied the Objector (and the proposed conservatee's attorney) the same opportunity. Petitioners failed to serve Mr. Rube with the Petition notwithstanding the fact that they were aware Mr. Rube represented (and represents) the proposed conservatee. Moreover, to date, Petitioners have only served Objector's attorney with the pleadings pertaining to the permanent conservatorship proceeding despite a 09/03/13 hearing date on that matter. This is consistent with their efforts to prevent any meaningful opposition from being assembled.
4. Such actions have prejudiced Objector by limiting his ability to engage in discovery or otherwise prepare his opposition, however, Petitioners are unable to meet the *clear and convincing* evidentiary standard to support their petition. On the one hand, Petitioners seek to rely on the Mr. Loeffler's statement to the court investigator that he consents to the conservatorship, while on the other hand they seek to disregard Mr. Motsenbocker's and Mr. Rube's thorough interview with him wherein it was determined that he had capacity to execute his Advanced Health Care Directive. Does Mr. Loeffler have capacity to make decisions or not? Interestingly, Mrs. Loeffler opposes the conservatorship proceedings and yet Petitioners wish to give no credence to her opposition. It appears for the Petitioners it depends on what Mr. and Mrs. Loeffler's decisions are as to whether they should be given any weight. Moreover, on 06/20/13, Dr. Sorenson, M.D. met (alone) with Mr. Loeffler and determined that he had the capacity to make the decision as to who would make health care decisions for him.
5. A thread that runs through the Petitioners petition and supporting declaration is that Objector is some sort of violent threat. Yet, none of the concerns or allegations have ever materialized. Petitioners can point to absolutely no evidence of Objector engaging in physical abuse or becoming violent with anyone. Admittedly, Objector is a retired police officer and gun collector. But Objector is well within his constitutional rights to own firearms. Objector does not have a concealed carry permit and does not carry firearms. There are no allegations of brandishing firearms or otherwise threatening anyone with firearms.

Continued on Page 6

6. Objector has been the family member who spends time with the proposed conservatee day in and day out. He has been with the proposed conservatee when he rings for assistance to use the restroom and seen him have to wait several minutes for an assistant to arrive only to turn off the ringer and provide an excuse as to why immediate assistance cannot be provided. The proposed conservatee suffers from mild incontinence and irritable bowel syndrome and thus not attending to his needs can lead to him urinating on himself. Objector wants the best for his parents and is willing to advocate for them. When he witnesses consistently poor care, he has grown frustrated and attempted to garner changes through the prescribed avenues. Sure, Objector has gotten upset with the staff at Sierra View, but when did caring for your parents and expecting the best care possible become a bad thing?
7. Petitioners assertion that Objector has isolated their parents is patently false. The proposed conservatee resides at Sierra View Homes, Objector does not have the ability to deny anyone access to see the proposed conservatee, any of their children can visit when they please. Objector does not have them under "lock and key". Moreover, Objector does not spend every moment of every day at Sierra View Homes. If Petitioners dislike for their brother is so deep that they do not want to see him and thereby forego visiting with their parents, that is not "isolation". There is more than adequate time for Petitioners to visit. The fact is petitioners simply choose not to take advantage of the opportunities they have to visit their parents. Despite Petitioners having the opportunity to visit with their parents as they please, Objector is willing to enter into a formal mutually agreeable visitation schedule to ensure everyone in the family has equal opportunity to separately visit with the proposed conservatee. However, in no circumstance will the Objector agree to forego his relationship with his parents simply because his siblings do not like him.
8. The allegations that Objector is physically, emotionally, or financially abusing the proposed conservatee are false. The proposed conservatee lives at a facility whose entire staff are mandated reporters and must report physical abuse, isolation, financial elder abuse, or neglect. A mandated reporter shall also report if they are told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, isolation or financial abuse. While the staff at Sierra View Homes supplied a declaration in support of the petition, there is no evidence before the court that there has been any report or investigation. Even if a report had been made, there has been no investigation or anything to show that a report had any merit. Moreover, there has been no APS or Fresno Police Department investigation.
9. Objector has received no undue benefit from his parents. All of the assets of the proposed conservatee can be accounted for. The allegations regarding financial elder abuse cannot be substantiated.
10. The Petitioners seek to take away the proposed conservatee's ability to choose who makes decisions for him. They do this in the face of evidence that he has capacity to make these decisions for himself and that he has exercised his ability to choose. While the petitioners may not like the decisions their parents have made, and clearly do not like their brother, it does not give them the right to impose their will over that of their parents.
11. Further, Objector objects to these proceedings as follows:
 - a. Conservatorship of the Estate is not the least restrictive alternative: The court must make an express finding that the granting of a conservatorship estate is the least restrictive alternative needed for the protection of the proposed conservatee. Proposed conservatee is the settlor of the Loeffler Family Trust dated 08/01/72 (the "Trust"), as amended with his spouse. Pursuant to the terms of the second amendment and full restatement of the Trust, if Bruce Bickel ceased acting as successor trustee of the Trust, the proposed conservatee and his spouse became trustees. Objector is granted authority to nominate a Licensed Professional Fiduciary to act in such capacity upon the vacancy of the office of trustee. There is no dispute as to the validity of this instrument. Objector exercised his authority to nominate Pat Dicken of Dicken & Perine to serve as trustee. Objector believes that the bulk of the Loeffler's assets are held in the Trust. To the extent there are non-trust assets, Objector proposes Ms. Dicken be appointed the temporary conservator of the estate in order to marshal any such assets and deliver them to herself, as trustee of the Trust, thereby rendering the need for a permanent conservatorship of the estate moot.

Continued on Page 7

- b. Conservatorship of the Person is not the least restrictive alternative: Proposed conservatee executed an Advanced Health Care Directive ("AHCD") prepared by attorney Melvin Rube. Mr. Rube anticipated a challenge to the validity of the AHCD and had the proposed conservatee meet with Gary Motsenbocker, whose experience in the trust and estates field is extensive and reputation is exceptional, to interview the proposed conservatee. Both Mr. Rube and Mr. Motsenbocker were satisfied that the proposed conservatee had the requisite capacity to execute the AHCD. Moreover, it was determined by Dr. Sorenson that proposed conservatee had the capacity to make such a determination. The AHCD nominates Objector to make healthcare decisions for the proposed conservatee. Therefore establishing a conservatorship of the person is not the least restrictive alternative and should be denied.
- c. Should the Court determine that a conservatorship is necessary, proposed conservatee nominated Objector as his conservator of the person: Probate Code § 1810 provides that if, at the time of nominating a party, the proposed conservatee has sufficient capacity to form an intelligent preference, the court SHALL appoint the proposed conservatee's nominee, unless the court finds that the appointment is not in the best interest of the proposed conservatee. The proposed conservatee was interviewed by two attorneys and a neurologist who determined that the proposed conservatee had the capacity to execute the AHCD. The AHCD nominates Objector to serve as the attorney-in-fact to make health care decisions for the proposed conservatee. In the event conservatorship of the person of the proposed conservatee is deemed necessary, the AHCD nominates Objector. Therefore, a conservatorship of the person is unnecessary.
- d. Petitioners fail to meet evidentiary standard: Probate Code § 1810(e) provides the standard of proof for the appointment of a conservator is **clear and convincing evidence**. The evidence before the court does not meet the clear and convincing standard and thus cannot support the appointment of a temporary conservatorship of the person or estate.
- e. Evidentiary objections: The court shall hear and determine the matter of the establishment of the conservatorship according to the law and procedure relating to the trial of civil actions. Probate Code § 1827.
 - (1) Evidentiary Objection: Declaration of Diana E. Asami in Support of Conservatorship of the Person of Fred Loeffler: Objector objects to the declaration of Diana E. Asami and the attachment thereto on the following grounds:
 - (a) It is inadmissible character evidence under Evidence Code § 1101 (a).
 - (b) It is irrelevant. Relationships between intimate partners and husband and wife differ from relationships with one's parents. Evidence Code § 350.
 - (c) Its probative value is slight compared by its prejudicial impact. Evidence Code § 352.

Petition for Appointment of Temporary Conservatorship of the Person and Estate

Age: 84		<u>TEMPORARY GRANTED EX PARTE:</u> <u>EXPIRES 08/08/13</u>		NEEDS/PROBLEMS/ COMMENTS: <u>CONTINUED FROM 08/08/13</u> <u>Minute Order from 08/08/13</u> states: The Court orders that Fred Loeffler and Kathleen Loeffler may meet in her apartment as much as they desire so long as they are alone. If Mick Loeffler is in their presence, said meetings shall take place in the cafeteria or other neutral place. The Court orders that the trust funds not be used for any other purpose other than for Fred Loeffler and Kathleen Loeffler's personal care and needs. Mr. Janisse to file his objections by Monday. Court Investigator advised rights on 07/30/13. Note: The Ex Parte was granted with Petitioners as Co-Conservators of the Person and Bruce Bickel as Conservator of the Estate. Bond was posted on 07/31/13 and temporary Letters have issued. Note: The Temporary was granted Ex Parte; therefore if the temporary is extended additional Letter of Conservatorship will need to be submitted.
		<u>GENERAL HEARING: 09/03/13</u>		
Cont. from 080813		DIANE HUERTA and LINDA PLITT, daughters, are Petitioners and request appointment as temporary Co-Conservators of the Person and as temporary Co-Conservators of the Estate or, in the alternative, that Bruce Bickel be appointed as Conservator of the Estate, with bond set at \$1,850,000.00.		
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	w/		
	Aff.Pub.			
	Sp.Ntc.			
✓	Pers.Serv.	w/		
✓	Conf. Screen			
	Letters	x		
✓	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
	Order	x		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
		<p>Estimated Value of the Estate: Personal property - \$1,700,000.00 Annual income - 23,328.00 Bond recover amt. - 124,467.00 Total - \$1,847,795.00</p> <p>Petitioners allege that their parents had put together estate planning documents intended to provide for them during their elderly years. Recently, Michael Loeffler, son, has unduly influenced their parents to change their durable power of attorney, trustee of their trust, and advanced health care directive changed so that he is now acting on behalf of his parents under these instruments. Petitioners allege that Michael has an "atomic temper" and he uses yelling and intimidation to get his way. Petitioners believe that their parents are now afraid to express their own opinions and defer to Michael. Petitioners indicate that Michael lives in their parents home rent-free and is paid a monthly amount by their parents. The conservatee now resides in an independent living apartment at the same facility where her husband, Fred Loeffler, resides.</p> <p>Court Investigator Charlotte Bien filed a report on 08/01/13.</p> <p>Continued on Page 2</p>		
		Reviewed by: JF Reviewed on: 08/12/13 Updates: 08/13/13 Recommendation: File 2 – Loeffler		

Declaration of Bruce D. Bickel Regarding Suitability for Appointment as Temporary and Permanent Conservator of the Estate filed 08/06/13 states:

5. Declarant received a letter purportedly from Fred and Kathleen Loeffler that states in part, "Kathleen and I feel you are incompetent and want nothing to do with you."
6. Declarant does not believe that the letter was composed by Fred Loeffler for the following reasons:
 - c. According to the Court Investigator's report, Fred Loeffler does not object to the proposed conservator.
 - d. Declarant served as trustee of the Fred and Kathleen for a short period of time, during which there was confusion about the payment of the Sierra View monthly rent. The facts alleged in the letter are not correct. The circumstance was straightened out to the satisfaction of Sierra View and Mrs. Loeffler. However, Mrs. Loeffler requested that Declarant resign as trustee because that was the result desired by her son, Michael, and she admitted to Declarant that, "she could not get Mick to listen to reason."
7. The tenor of the letter is consistent with behavior of Michael that Declarant witnessed, in which he inserts himself into the affairs of his parents, making demands and directions that are inconsistent with the true wishes of his parents.
8. Declarant remains available to serve as the temporary and/or permanent conservator of the estate in this matter. He does not believe that the statements in the letter are sentiments held by Kathleen and Fred Loeffler and does not affect his ability to act in the best interests of the proposed conservatees, but it does confirm his suspicion that they are vulnerable to the undue influence of their son, Michael.

Declaration of Diana Asami filed 08/06/13 states that she received a package with the restraining orders copies of which are attached to the Attachment to Declaration of Diana E. Asami filed 08/07/13.

Declaration of Melvin K. Rube in Opposition to the Petition filed 08/08/13 states:

7. On Wednesday, 08/07/13, during a phone call with Kathleen Loeffler, she confirmed that she and Fred both opposed the conservatorship and wants Declarant to represent them in this matter.
8. Kathleen Loeffler opposes the imposition of a temporary conservatorship of her Estate because she and Fred have planned for their retirement years and created The Loeffler Family Trust. Fred and Kathleen have conveyed all of their assets into the Trust, and all of their assets, including the assets of the Trust, are the community property of Fred and Kathleen, as evidenced by the written *Community Property Agreement* executed by Fred and Kathleen on 02/14/01.
9. Pursuant to Probate Code § 3051(b)(2), if one spouse has legal capacity and the other spouse has a conservator, the community property is not part of the conservatorship estate. Under Probate Code § 3051(b)(1), if one spouse has legal capacity has the exclusive management and control of the community property. There is nothing in the petition that provides any legal or factual basis establishing the lack of legal capacity on the part of Kathleen.
10. Further, the Trust is set up so that if Fred and Kathleen are no longer able to act, their son Michael is to appoint a professional fiduciary to act as trustee. Kathleen and Mick have contacted Pat Dicken of Perine & Dicken for the purpose of her acting as successor trustee of the Trust and as a temporary conservator of Fred's estate if conservatorship is imposed on Fred's estate. Kathleen is opposed to Bruce Bickel acting as the temporary conservator of her estate.

Continued on Page 3

11. Kathleen objects to the imposition of a temporary conservatorship of her person for the following reasons:
 - c. On 07/18/13, Kathleen executed a California Health Care Directive under *Probate Code* § 4701 naming Mick G. Loeffler as her agent for medical decisions and as **conservator of her person** if a conservator of the person is required to be appointed by the court. At the same time Kathleen also executed a revocation of all previous health care directives, which was sent to petitioners.
 - d. In anticipation of a legal challenge by Linda Plitt, Diane M. Huerta and Samuel Loeffler to the Health Care Directive, before Kathleen executed the document, steps were taken to ensure that Kathleen had the capacity to sign a new Health Care Directive and that she was not being influenced in her decision by (i) having attorney Gary L. Motsenbocker interview Kathleen for approximately 30 minutes outside of the presence of Mick Loeffler and Declarant. After the conference, Mr. Motsenbocker concluded that Kathleen was not being influenced by Mick Loeffler and had the capacity to execute a new Health Care Directive and acted as a witness to the Health Care Directive, and (iii) pursuant to *Probate Code* § 1810, the court should honor Kathleen's decision to appoint Mick G. Loeffler as the conservator of her person if such a conservatorship is imposed.
12. The Petition should be denied in its entirety. Even if the Court imposes a conservatorship over the Kathleen's estate, the assets of the Trust are not part of Kathleen's estate in that said assets are the community property of Fred and Kathleen and neither the petition nor the accompanying declarations establish the "good cause" required under *Probate Code* § 2250(c) and California case law. Further, Kathleen's Health Care Directive signed by her on 07/18/13 should be given preference.

Declaration of M. Kip Faria filed 08/08/13 states:

2. On 08/06/13, he traveled to the home of Kathleen Loeffler to personally serve the conservatorship documents on Mick Loeffler. When he arrived at the residence at approximately 5:24pm, he could hear a man, later identified as Mick Loeffler, talking loudly and sternly. Declarant stood at the door and listened for approximately 25 seconds during which time he heard Mick saying, "I read the court papers and Bruce pretty much lied throughout them." Declarant then rang the doorbell and Mick answered the door. Declarant identified himself and was invited inside by Mick. Kathleen and Fred Loeffler were present with Mick and they were all seated at the kitchen table eating dinner. Declarant then proceeded to serve the paperwork to all parties involved.

Supplemental Declaration of Marcella Downing, Esq. in Support of Petition for Temporary and Permanent Conservatorship of Kathleen Loeffler, Proposed Conservatee filed 08/12/13 states:

9. A conflict of interest exists with Mr. Rube representing both Kathleen and Fred Loeffler. According to California Rules of Professional Conduct, Rule 3-310(c)(1), "A member shall not, without informed written consent of each client accept representation of more than one client in a matter in which the interest of the clients potentially conflict..." Mr. Rube's fee agreement with the Loeffler's does not include any written waiver of this conflict.
10. Mr. Loeffler has stated to the Court Investigator that he does not object to his daughters acting as his conservator. Yet, Mr. Rube is objecting because, as he admits in his declaration, "Kathleen confirmed with me that she wants me to represent both her and Fred in these conservatorship proceedings and that she and Fred do not want a conservatorship imposed on their persons or estates...and she and Fred do not want Bruce Bickel to serve...nor does she and Fred want Diane Huerta and/or Linda Plitt to act as conservators..." Clearly, Mr. Rube is taking direction from Mrs. Loeffler which is directly in opposition to the stated desires of Mr. Loeffler. Petitioner's respectfully submit that each of the Loefflers deserve to be represented by an attorney who does not have divided loyalties.

Continued on Page 4

11. Probate Code § 1810 states, "if the proposed conservatee has sufficient capacity at the time to form an intelligent preference, the proposed conservatee may nominate a conservator...**unless the court finds that the appointment of the nominee is not in the best interests of the proposed conservatee.**" Regardless of the findings as it applies to the proposed conservatee's capacity, the evidence shows a pattern of violent behavior, hostile threats and mannerisms on the part of Mick Loeffler which would put any reasonable person in fear of disagreeing with him. It is not in the best interest of the proposed conservatee to allow Mick Loeffler to act as the holder of either the healthcare power of attorney or the durable power of attorney. Petitioners request a court order that all powers of attorney, both durable and for healthcare, be set aside as allowed by the code.
12. Evidence filed and that will be provided at the final hearing show a pattern of behavior which includes violence, the threat of violence, and intimidation for the purpose of financial gain. Although the proposed conservatee has put in place a system for payment of bills and management of her finances, this system is not working to substantially manage her financial resources because the very person she has entrusted to pay her bills, Mick Loeffler, is using her money to enrich himself (Mick) and living in her home rent free. It is believed that upon an audit by a forensic accountant, it will be found that Mick has also used the proposed conservatee's funds to pay his own expenses.
13. Undue influence exists where "the evidence is of such a nature as to warrant the inference that the will was the direct result of the influence exerted for the purpose of procuring it, and was not the natural result of the uncontrolled will of the testatrix." *In re Hettermann's Estate*, 48 Cal.App.2d 263, 273 (1941) citing *Estate of Arnold*, 147 Cal. [583], 589, 82 P. 252; *Estate of Welch*, 6 Cal.App. [44], 50, 91 P. 336." The evidence will show Mick Loeffler has taken his parents from attorney to attorney in an attempt to force his will which is contrary to their long-held testamentary intent. Prior powers of attorney and trusts which have been in place for decades are offered as essentially the "legislative history" of Mr. and Mrs. Loeffler's dispositive wishes. Mick Loeffler has influenced his parents, and in particular his mother, to fire one advisor after another when the advisor would not follow his directions, which would result in an unnatural treatment of the intended beneficiaries of the trust and would not allow Mick full control of the powers of attorney, through which he could and has further isolated his parents for the purpose of exerting continuing pressure.
14. Mrs. Loeffler has admitted as noted in the Court Investigator's report, that she must stop listening and begin praying that Mick Loeffler will be able to control himself when he starts yelling. Petitioners believe that Mrs. Loeffler's change in behavior towards her other three children and her change in emotions are a result of what might be analogous to one suffering from post traumatic stress syndrome. An examination by a neuropsychologist is necessary. Mrs. Loeffler's statement that she stops listening and prays Mick will get under control when he loses his temper is evidence that she is unable to remain mentally present when he is out of control. Petitioner's believe that Linda Plitt's testimony in her declaration that her mother fell asleep during Mick's four hour session of yelling is further evidence of the stress Mrs. Loeffler has been under for years.
15. Evidence will show that Mrs. Loeffler does not know what she has in her bank account and to whom she is talking. The Court Investigator's report shows that Mrs. Loeffler is willing to give Mick as much money as he requests, stating it is compensation for care when, in fact, it appears to be payments made in the hopes that these payments will cause Mick to control his temper. This pattern of abuse has continued for such a time that it is likely Mrs. Loeffler has now confused her desire to avoid abuse with love and affection. A neuropsychologist's examination is required to determine the extent of harm inflicted by Mick Loeffler and Mrs. Loeffler's ability to form her own opinions and withstand undue influence.
16. Declarant respectfully submits that sufficient evidence has been produced to warrant the continuance of the temporary conservatorship of the estate and the person and warrant an order of examination of the proposed conservatee by a neuropsychologist.

Continued on Page 5

Objection to Petition for Appointment of Temporary Conservator(s) of the Person and Estate of Fred Loeffler filed 08/12/13 states:

12. Objector, Mick Loeffler, is the son of Fred and Kathleen Loeffler.
13. The thrust of petitioner's petition is that Objector is isolating, emotionally abusing, financially abusing, and interfering with those providing care for the proposed conservatee. In actual fact, Objector is a devoted son who has attended to his parents' needs and his parents are grateful for his efforts. Objector has engaged in no financial, physical, or emotional abuse and is not isolating his parents.
14. Objector believes that petitioners took months (if not years) to prepare their case, yet brought the action ex parte. Petitioners have had the opportunity to obtain declarations and interview witnesses, but because of the litigation tactics employed, have denied the Objector (and the proposed conservatee's attorney) the same opportunity. Petitioners failed to serve Mr. Rube with the Petition notwithstanding the fact that they were aware Mr. Rube represented (and represents) the proposed conservatee. Moreover, to date, Petitioners have only served Objector's attorney with the pleadings pertaining to the permanent conservatorship proceeding despite a 09/03/13 hearing date on that matter. This is consistent with their efforts to prevent any meaningful opposition from being assembled.
15. Such actions have prejudiced Objector by limiting his ability to engage in discovery or otherwise prepare his opposition, however, Petitioners are unable to meet the *clear and convincing* evidentiary standard to support their petition. On the one hand, Petitioners seek to rely on the Mr. Loeffler's statement to the court investigator that he consents to the conservatorship, while on the other hand they seek to disregard Mr. Motsenbocker's and Mr. Rube's thorough interview with him wherein it was determined that he had capacity to execute his Advanced Health Care Directive. Does Mr. Loeffler have capacity to make decisions or not? Interestingly, Mrs. Loeffler opposes the conservatorship proceedings and yet Petitioners wish to give no credence to her opposition. It appears for the Petitioners it depends on what Mr. and Mrs. Loeffler's decisions are as to whether they should be given any weight. Moreover, on 06/20/13, Dr. Sorenson, M.D. met (alone) with Mr. Loeffler and determined that he had the capacity to make the decision as to who would make health care decisions for him.
16. A thread that runs through the Petitioners petition and supporting declaration is that Objector is some sort of violent threat. Yet, none of the concerns or allegations have ever materialized. Petitioners can point to absolutely no evidence of Objector engaging in physical abuse or becoming violent with anyone. Admittedly, Objector is a retired police officer and gun collector. But Objector is well within his constitutional rights to own firearms. Objector does not have a concealed carry permit and does not carry firearms. There are no allegations of brandishing firearms or otherwise threatening anyone with firearms.
17. Objector has been the family member who spends time with the proposed conservatee day in and day out. He has been with the Dr. Loeffler when he rings for assistance to use the restroom and seen him have to wait several minutes for an assistant to arrive only to turn off the ringer and provide an excuse as to why immediate assistance cannot be provided. The proposed conservatee suffers from mild incontinence and irritable bowel syndrome and thus not attending to his needs can lead to him urinating on himself. Objector wants the best for his parents and is willing to advocate for them. When he witnesses consistently poor care, he has grown frustrated and attempted to garner changes through the prescribed avenues. Sure, Objector has gotten upset with the staff at Sierra View, but when did caring for your parents and expecting the best care possible become a bad thing?
18. Petitioners assertion that Objector has isolated their parents is patently false. The proposed conservatee resides at Sierra View Homes, Objector does not have the ability to deny anyone access to see the proposed conservatee, any of their children can visit when they please. Objector does not have them under "lock and key". Moreover, Objector does not spend every moment of every day at Sierra View Homes. If Petitioners dislike for their brother is so deep that they do not want to see him and thereby forego visiting with their parents, that is not "isolation". There is more than adequate time for Petitioners to visit. The fact is petitioners simply choose not to take advantage of the opportunities they have to visit their parents. Despite Petitioners having the opportunity to visit with their parents as they please, Objector is willing to enter into a formal mutually agreeable visitation schedule to ensure everyone in the family has equal opportunity to separately visit with the proposed conservatee. However, in no circumstance will the Objector agree to forego his relationship with his parents simply because his siblings do not like him.

Continued on Page 6

19. The allegations that Objector is physically, emotionally, or financially abusing the proposed conservatee are false. The proposed conservatee lives at a facility whose entire staff are mandated reporters and must report physical abuse, isolation, financial elder abuse, or neglect. A mandated reporter shall also report if they are told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, isolation or financial abuse. While the staff at Sierra View Homes supplied a declaration in support of the petition, there is no evidence before the court that there has been any report or investigation. Even if a report had been made, there has been no investigation or anything to show that a report had any merit. Moreover, there has been no APS or Fresno Police Department investigation.
20. Objector has received no undue benefit from his parents. All of the assets of the proposed conservatee can be accounted for. The allegations regarding financial elder abuse cannot be substantiated.
21. The Petitioners seek to take away the proposed conservatee's ability to choose who makes decisions for her. They do this in the face of evidence that she has capacity to make these decisions for herself and that she has exercised her ability to choose. While the petitioners may not like the decisions their parents have made, and clearly do not like their brother, it does not give them the right to impose their will over that of their parents.
22. Further, Objector objects to these proceedings as follows:
 - f. Conservatorship of the Estate is not the least restrictive alternative: The court must make an express finding that the granting of a conservatorship estate is the least restrictive alternative needed for the protection of the proposed conservatee. Proposed conservatee is the settlor of the Loeffler Family Trust dated 08/01/72 (the "Trust"), as amended with her spouse. Pursuant to the terms of the second amendment and full restatement of the Trust, if Bruce Bickel ceased acting as successor trustee of the Trust, the proposed conservatee and her spouse became trustees. Objector is granted authority to nominate a Licensed Professional Fiduciary to act in such capacity upon the vacancy of the office of trustee. There is no dispute as to the validity of this instrument. Objector exercised his authority to nominate Pat Dicken of Dicken & Perine to serve as trustee. Objector believes that the bulk of the Loeffler's assets are held in the Trust. To the extent there are non-trust assets, Objector proposes Ms. Dicken be appointed the temporary conservator of the estate in order to marshal any such assets and deliver them to herself, as trustee of the Trust, thereby rendering the need for a permanent conservatorship of the estate moot.
 - g. Conservatorship of the Person is not the least restrictive alternative: Proposed conservatee executed an Advanced Health Care Directive ("AHCD") prepared by attorney Melvin Rube. Mr. Rube anticipated a challenge to the validity of the AHCD and had the proposed conservatee meet with Gary Motsenbocker, whose experience in the trust and estates field is extensive and reputation is exceptional, to interview the proposed conservatee. Both Mr. Rube and Mr. Motsenbocker were satisfied that the proposed conservatee had the requisite capacity to execute the AHCD. The AHCD nominates Objector to make healthcare decisions for the proposed conservatee. Therefore establishing a conservatorship of the person is not the least restrictive alternative and should be denied.
 - h. Should the Court determine that a conservatorship is necessary, proposed conservatee nominated Objector as her conservator of the person: Probate Code § 1810 provides that if, at the time of nominating a party, the proposed conservatee has sufficient capacity to form an intelligent preference, the court SHALL appoint the proposed conservatee's nominee, unless the court finds that the appointment is not in the best interest of the proposed conservatee. The proposed conservatee was interviewed by two attorneys who determined that the proposed conservatee had the capacity to execute the AHCD. The AHCD nominates Objector to serve as the attorney-in-fact to make health care decisions for the proposed conservatee. In the event conservatorship of the person of the proposed conservatee is deemed necessary, the AHCD nominates Objector. Therefore, a conservatorship of the person is unnecessary.

Continued on Page 7

- i. Petitioners fail to meet evidentiary standard: Probate Code § 1810(e) provides the standard of proof for the appointment of a conservator is **clear and convincing evidence**. The evidence before the court does not meet the clear and convincing standard and thus cannot support the appointment of a temporary conservatorship of the person or estate.
- j. Evidentiary objections: The court shall hear and determine the matter of the establishment of the conservatorship according to the law and procedure relating to the trial of civil actions. Probate Code § 1827.
 - (2) Evidentiary Objection: Declaration of Diana E. Asami in Support of Conservatorship of the Person of Fred Loeffler: Objector objects to the declaration of Diana E. Asami and the attachment thereto on the following grounds:
 - (d) It is inadmissible character evidence under Evidence Code § 1101 (a).
 - (e) It is irrelevant. Relationships between intimate partners and husband and wife differ from relationships with one's parents. Evidence Code § 350.
 - (f) Its probative value is slight compared by its prejudicial impact. Evidence Code § 352.